

ZONING BOARD OF APPEALS
MINUTES
JANUARY 13, 2009

The meeting was called to order by Chairman Richard Garrity at 7:31 p.m. Board Members Gregory Constantino, Barbara Fried, Edward Kolar, Dale SiligmueLLer and Michael Waterman were present. Board Member Mary Ozog was excused. Also present were Trustee Liaison Mary Jane Chapman and Building and Zoning Official Joe Kvpil.

Chairman Garrity described the proceedings of the Zoning Board of Appeals.

Board Member Fried moved, seconded by Board Member Kolar, to approve the minutes of the April 22, 2008 and December 9, 2008 Zoning Board of Appeals meetings. The motion carried unanimously by voice vote.

One public hearing was on the agenda for properties at 151 and 155 N. Main Street.

PUBLIC HEARING – 151 AND 155 N. MAIN STREET

A REQUEST FOR APPROVAL OF THREE (3) VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION 10-4-1(K) AND SECTION 10-4-1(J) TO ALLOW THE CONSTRUCTION OF A NEW SINGLE-FAMILY HOUSE ON A NONCONFORMING LOT AT 151 N. MAIN STREET THAT IS OWNED BY THE PETITIONERS WHO RESIDE AT 155 N. MAIN STREET. 2. SECTION 10-5-11(B) TO ALLOW A DRIVEWAY APPROACH TO REMAIN ON THE EXISTING LOT AT 155 N. MAIN AND A DRIVEWAY APPROACH TO REMAIN ON THE VACANT LOT AT 151 N. MAIN ALTHOUGH NEITHER LOT, INDIVIDUALLY OR COMBINED, ARE WIDE ENOUGH PER CODE TO ALLOW TWO APPROACHES. 3. SECTION 10-5-5(B)4 TO ALLOW A DRIVEWAY TO BE CONSTRUCTED ACROSS BOTH LOTS AT 151 N. MAIN STREET AND 155 N. MAIN STREET. AN IMPERVIOUS SURFACE DRIVEWAY MUST BE SET BACK A MINIMUM OF ONE (1) FOOT FROM ANY LOT LINE.

(David and Jennifer Eldersveld, owners)

Staff Report

Building and Zoning Official Joe Kvpil stated that the petitioners, Jennifer and David Eldersveld, own both properties at 151 N. Main Street and 155 N. Main Street. Mr. Kvpil displayed a photograph of the properties at 151 N. Main Street and 155 N. Main Street and stated that the house shown in the 151 N. Main Street photograph has been demolished and the lot is currently vacant. Mr. Kvpil described the location of the subject properties and stated that they are in the R2 Residential zoning district and are surrounded by residential properties. Mr. Kvpil displayed plats of survey of the subject properties and stated that both lots are nonconforming at 50 feet in width. He stated that the petitioners purchased the 155 N. Main property in 2005 and the 151 N. Main property in 2008 and that upon the purchase of the 151 N. Main property in 2008, per the Zoning Code, the two nonconforming lots became one conforming zoning lot.

The petitioners are requesting three (3) variations from the Zoning Code. The first variation request is to allow the one conforming zoning lot to be considered as two separate lots as they were prior to being purchased by the same owner. Mr. Kvapil stated that an exception in the Zoning Code would allow the lots to remain as separate zoning lots if certain conditions are met, however, the subject request does not meet three conditions as follows: 1. The petitioners did not own both lots on June 1, 1989 (at which time, the Zoning Code allowed two separate lots under common ownership to have separate structures constructed on each. 2. Per code, the two lots are required to be combined. 3. Seventy-five percent (75%) of the lots on both sides of the subject street must be of a lot width of equal to or less than the subject lot, and Mr. Kvapil displayed a map that indicated that 47% of the lots are less than 50 feet in width. The second variation request is to allow the two existing driveway approaches to remain as they currently are. The Zoning Code does not permit two driveway approaches on lots less than 132 feet in width, and the subject lots, separately and combined, do not total 132 feet. The third variation request is to allow a driveway to be constructed from the 151 N. Main lot to the 155 N. Main lot without being set back a minimum of one (1) foot from the lot line(s).

Petitioners' Presentation

Mr. Eldersveld stated that he and his family have lived in Glen Ellyn for approximately three years and that they bought the property at 155 N. Main Street in 2005. He added that they have roots in the western suburbs and plan to continue to live in Glen Ellyn. Mr. Eldersveld stated that shortly after they purchased their home, the residence next door at 151 N. Main Street sold and renovation work began on that house, however, the site remained in an extreme state of disrepair for a lengthy period of time. The house eventually went into foreclosure, however, the bank/mortgage holder was unaware that the home had almost entirely been torn down. The property was subsequently put on the market, and although Mr. Eldersveld stated that he told the bank he was not interested in purchasing the lot, the bank would periodically contact him and eventually the bank agreed to a price offered by the Eldersvelds'. Mr. Eldersveld added that he was not represented by an agent during the purchase of the lot.

Although Mr. Eldersveld stated that he had informal discussions with Village staff regarding fencing and driveway approaches during the time surrounding the negotiation and purchase of the 151 N. Main lot, after the purchase of the 151 N. Main lot and upon presentation of his plans to the Village, Mr. Eldersveld stated that he was surprised and disappointed to learn that the two lots would now be treated as one zoning lot.

Mr. Eldersveld stated that his family would like to use the 151 N. Main lot as additional yard space, install a common fence around both properties and adjoin the two driveway approaches. He believes that the variation requests are consistent with regard to the dimensions of other properties in the neighborhood and would not change the character of the neighborhood. Mr. Eldersveld stated that they currently have no plans to sell or develop the 151 N. Main lot but that they would like to have the flexibility to potentially sell that lot at some future date. He added that if any of his non-contiguous neighbors

had purchased the lot, the lot would be considered a separate zoning lot. Mr. Eldersveld stated that, if denied, the variation request to build a new single-family home on the 151 N. Main lot would place a significant hardship on his family. He felt that a house should be allowed to be built on the lot because the lot was developed in the past and added that he was unaware of the code regarding contiguous lots under common ownership. Mr. Eldersveld felt that allowing two driveway approaches on the properties would help ingress and egress on and off of Main Street and wouldn't change the character of the neighborhood. He added that the driveway approach at 151 N. Main is shared with 145 N. Main; therefore, removing the driveway approach would affect the 145 N. Main property owner. Mr. Eldersveld added that proposed landscaping per their plans would significantly improve the property and neighborhood.

Mr. Eldersveld stated that a significant majority of his neighbors signed a petition in favor of the variation requests, and Ms. Eldersveld distributed the petition with 14 signatures to the Zoning Board of Appeals.

Responses to Questions from the ZBA

Mr. Kvpil clarified for Mr. Kolar that if the variation request to allow the lots to be considered as two separate zoning lots is denied, the variation request for impervious surface for the driveway would not apply. Mr. Kvpil explained for Mr. Siligmuller that when determining the width of the lots on the street, the lots included extend to the next intersecting street. Ms. Fried asked if the 151 N. Main property is in joint ownership as David Eldersveld, alone, owns that property, and Mr. Kvpil responded that the Village Attorney has clarified that the 151 N. Main property is considered common ownership. Mr. Kvpil verified for Mr. Waterman that the petitioners could not sell the 151 N. Main property as a separate lot because the two lots are now one zoning lot. Mr. Kvpil also verified for Mr. Kolar that the petitioners could sell a portion of the 151 N. Main lot to the adjacent owner in order to create two conforming lots. Mr. Waterman asked how one would know when purchasing a lot similar to the subject lot that the lots would then become one conforming lot, and Mr. Kvpil replied that the Village does not regulate the sale of property and that it is the responsibility of the purchaser to be aware of the zoning regulations.

Mr. Kvpil explained to Ms. Fried that a fence cannot be constructed around both lots because a fence is an accessory structure and an accessory structure cannot be constructed on a lot unless there is a principal structure on the lot. Mr. Kvpil also explained for Mr. Siligmuller that a driveway is also an accessory structure that cannot be constructed on a lot without a principal structure. Mr. Kvpil clarified for Mr. Siligmuller that the Zoning Code allows the construction of new single-family houses on 50-foot wide nonconforming lots. Mr. Eldersveld responded to Mr. Constantino that no plans for any structures on the 151 N. Main lot have been prepared by an architect. In response to Mr. Constantino, Mr. Eldersveld stated that he is an attorney.

Persons in Favor of or in Opposition to the Petition

Jeremy Bierly, 145 N. Main Street, Glen Ellyn, Illinois lives directly to the south of 151 N. Main Street. Mr. Bierly commented on the state of disrepair of the 151 N. Main site prior to its purchase by Mr. Eldersveld. Mr. Bierly stated that the shared driveway approaches between his property and the 151 N. Main property help with ingress and egress on and off of Main Street. Mr. Bierly was in support of the variations being requested by the petitioners and felt approval of the variations would increase the property value and would be beneficial for his family.

Comments from the ZBA

The majority of the ZBA members were supportive of allowing the property at 151 N. Main Street to be a separate zoning lot so that the petitioners can construct a new single-family house on that property to market in the future. Suggested conditions of that approval were that the petitioners must provide architectural plans of a house to be constructed in the future and/or that the Village Board consider the sale of the lot within a specified time frame. Some ZBA members commented, however, that the petitioners are requesting that their properties are treated as both a combined lot and separate zoning lot which is inconsistent with the Zoning Code. Some Board members felt that the petitioners experienced a hardship because they were unaware that their properties would become one zoning lot upon purchase of the property at 151 N. Main Street; they did not intentionally purchase a large lot with the intention of subdividing it. Mr. Siligmuller commented that allowing a house to be built on the 151 N. Main property will not change the essential character of the neighborhood as a house existed on the property previously. Mr. Kolar was not in favor of allowing 151 N. Main Street to be a separate zoning lot and suggested that the petitioner divide that lot 50/50 with the adjoining neighbor to create two conforming lots. No ZBA members were in favor of variations to allow the existing driveway approaches at 155 and 151 N. Main Street to remain nor to allow a driveway to be constructed across both lots. Although not formally requested in the public hearing notice, the ZBA members also indicated that they were not in favor of allowing a fence to be constructed around both properties.

Motion

Mr. Kolar moved, seconded by Ms. Fried, to continue the meeting to February 10, 2009 to allow the Public Hearing Notice to be re-published to include a variation request for a fence as requested by the petitioners. Mr. Kvapil added that an error in the percentage of existing lots that are equal or less width than the vacant lot at 151 N. Main Street would also be corrected in the re-published notice. The motion carried unanimously by voice vote.

Trustee Report

Trustee updated the ZBA on the expensive cost of snow removal.

Staff Report

Mr. Kvapil reported that the next ZBA meeting is cancelled. He also distributed a revised draft of the Zoning Board of Appeals Protocol dated 1/8/09 for review by the ZBA members.

There being no further business before the Zoning Board of Appeals, the meeting was adjourned at 9:00 p.m.

Submitted by:

Barbara Utterback
Recording Secretary

Reviewed by:

Joe Kvapil
Building and Zoning Official